

APPLICATION NO: 21/00240/FUL

APPLICANT:MR GNANACHCHANDRRAN
THARMALINGAN

WARD AFFECTED: Northwood

DEVELOPMENT:

INSTALLATION OF A FLUE EXTRACTION SYSTEM AND NEW SHOP FRONT

LOCATION OF SITE:

The Best One, Westhead Avenue, Kirkby L33 0XE

DEVELOPMENT PLAN ALLOCATION:

Primarily Residential

REPRESENTATIONS:

Objections have been received from 7 people.

RECOMMENDATION:

That planning permission is approved subject to the conditions in Section 10 of this report.

CASE OFFICER

Lee Osborne (0151)-443 2395

SUMMARY:

The application proposes the installation of a flue extraction system and alterations to a shop front on a detached retail premises on Westhead Avenue, which was formerly the Molineux public house.

The flue extraction unit and new shop front are proposed to that part of the premises closest to Westhead Walk and would be used in conjunction with a café, which the applicant proposes to open (as explained below, this use does not require planning permission). No changes are proposed to the remainder of the building, which would continue to operate as a shop.

The key issues are the impacts of the proposal on the visual and residential amenity of residents of Westhead Walk and the wider area.

1. SITE AND SURROUNDINGS

- 1.1 The application relates to a detached building in use as a general store, which was formerly the Molineux public house. The site is on a prominent corner plot with the car park to the front of the store accessed from Westhead Avenue and Westhead Walk. with areas of car parking/servicing to the front and to the rear of the building. The shop is in a

residential area which has undergone some renewal in recent years and the site is surrounded by residential dwellings.

- 1.2 The building has a two-storey element at its core with flat roofed single storey additions on each side and to the rear. There is currently one customer entrance into the building, fronting Westhead Avenue, and windows on the ground floor, are obscured by either advertisements or roller shutters.

2. PROPOSAL

- 2.1 The application proposes the installation of a new shop front on the westernmost part of the building, adjacent to Westhead Walk, to service part of the building which would operate as a café. In this area of the building there are three windows and two doors, which are covered by roller shutters and that are generally kept closed. The application proposes to:
 - remove the roller shutters
 - block up the door and the lower part of the window facing Westhead Walk, and
 - install a new door and a single large window on the elevation facing Westhead Avenue.
- 2.2 A fume extraction unit is also proposed, with the flue stack of the unit extending up alongside the gable of the two-storey part of the shop. The flue extraction unit would be clad in brick and would run from the flat roof of the single storey element to approximately halfway to the ridge of the main building – to a height of 7.2m.
- 2.3 The building, in planning terms, has a lawful use as a retail store and the changes proposed would facilitate its use as a retail store and a café. The use of the building in this way does not require planning permission because of national changes to planning regulations introduced last year. Since September 2020 a retail use fall within a new category of uses, “Commercial, Business and Service Use” (Use Class E), as do a variety of other uses, which includes cafes and restaurants. A change from one Class E use to another (or a mix of) Class E uses does not require planning permission. Therefore, the creation of the café does not form part of this application and is not a matter for determination in assessing the application.

3. RELEVANT SITE HISTORY

15/00186/CLD - APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR A CHANGE OF USE OF FORMER PUBLIC HOUSE FROM A4 TO A1 (RETAIL). Granted: 20 May 2015.

15/00731/FUL - RETENTION OF EXTERNAL ALTERATIONS TO BUILDING ELEVATIONS TO CREATE NEW SHOP FRONT BY WAY OF REMOVAL OF WINDOWS AND INSTALLATION OF BLOCK AND RENDER TOGETHER WITH RE-INSTATEMENT OF DOOR OPENING PLUS ROLLER SHUTTER TO SIDE ELEVATION PROVIDING ACCESS TO FIRST FLOOR FLAT. Granted: 13 January 2016.

15/00732/ADV - RETENTION OF 16NO. NON-ILLUMINATED BOARD SIGNS AND 2NO. INTERNALLY ILLUMINATED FASCIA SIGNS. Granted: 12 January 2016.

16/00258/FUL - CHANGE OF USE OF PART OF EXISTING A1 SHOP TO FORM HOT FOOD TAKEAWAY (USE CLASS A5), TOGETHER WITH INSTALLATION OF EXTRACTION FLUE TO SIDE. Appeal dismissed: 24 March 2017.

20/00653/FUL - CHANGE OF USE OF PART OF RETAIL SHOP (USE CLASS E) TO FORM A HOT FOOD TAKEAWAY (SUI GENERIS), TOGETHER WITH INSTALLATION OF EXTRACTION FLUE TO SIDE AND NEW SHOP FRONT. Refused: 2 March 2021.

4. ARTICLE 31 STATEMENT

- 4.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

5. EQUALITIES ACT 2010

- 5.1 In determining this application the Local Planning Authority has considered the requirements under S149 of the Equalities Act 2010. It is considered that the application raises no significant equality issues.

6. REPRESENTATIONS

- 6.1 The application was advertised by individual letters sent to nearby properties and a site notice was also displayed. As a result, 7 objections have been received from 6 households.
- 6.2 The grounds of objection (in summary) are as follows:
- Delivery vans already block Westhead Walk. Extra cars on and off the car park at the end of our road will cause an issue in and out. The road is not in fantastic state at that end and narrow too.
 - Children congregate by the gated entrance to the back and leave rubbish and cause noise by banging on the metal back gate, this will get worse with people sitting and eating takeaway food. Smells from the new flue will also make the road smell worse.
 - There are 2-3 bin bags that have been on the shop land for about a year now. They are still there and are being ignored by them. Such a bad attitude towards rubbish removal increases rats in the area which residents then have to pay to get rid of.
 - Increased noise from the shop which is already open late at night.
 - It was a pub when the author moved in and they suffered car break-ins etc. and now they are going to get even more loitering and rubbish in front gardens that they will have to clean up because no one else will do it.
 - The author does not want it and has complained before. Nothing has changed since the application for a hot food take away - it is a place to eat and there will be more

traffic, more smell, more undisposed of rubbish. The type of eatery does not change the basic facts.

- It's not good for resident's environment with whatever will come out of the extractor fan.
- The noise and smell that will come from the flue extraction unit means that windows will not be able to be opened and washing hung out to dry because of the odour.
- If this becomes a takeaway the author will ask the council to help to get another property as the noise and disturbance will be worsen.
- The noise the flue extraction system would make would cause a disturbance to the local residents.
- This application suggests the first steps to providing takeaway products which will only exacerbate the current problems in the neighbourhood and will provide no benefits due to the vast array of facilities already offering these services in the local area.
- The noise from the flue extraction unit would be disturbing day and night.
- The smell alone will be disturbing and make the author's road uninviting, and cause homes to smell with the odour from the unit.
- Increased parking on the residential road as overflow parking from the badly maintained shop car park.

It should be noted that many of the points raised by objectors relate to the operation of the existing shop or are concerned that the premises will be operating as a hot food takeaway (a use not being applied for), or the use as a café (which does not require planning permission). Environmental Health have been made aware of the residents' concerns raised regarding the issue of litter at the site.

7. CONSULTATIONS

Environmental Health (Knowsley Council) – No objections in principle but request a fixed plant noise condition.

8. POLICY CONTEXT

8.1 Paragraph 12 of the National Planning Policy Framework (NPPF) states that:

“Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material conditions indicate otherwise.”

8.2 In this regard, the Knowsley Local Plan Core Strategy was adopted in January 2016, although certain saved policies of Knowsley Replacement Unitary Development Plan (UDP) remain operational as part of the Statutory Development Plan and are still given weight in reaching a decision under the provisions of paragraph 215 of the NPPF. The Joint Merseyside and Halton Waste Local Plan was adopted in 2013 and is also part of the development plan – although it does not contain any policies relevant to this proposal.

8.3 The site is allocated as Primarily Residential on the Local Plans Policies Map adopted in January 2016. The relevant adopted policies for the assessment of the application are listed below.

Knowsley Local Plan Core Strategy (2016)

CS2 – Development Principles

CS19 – Design Quality and Accessibility in New Development

Saved Policies of the Knowsley Replacement Unitary Development Plan (2006)

H5 – Development within Primarily Residential Areas

ENV2 – Noise and Vibration

9. ISSUES AND ASSESSMENT

9.1 The proposal raises two principal issues:

- whether the proposed development would have a detrimental impact on the residential amenities of the residents of neighbouring properties, namely with regard noise and odour from the flue extraction unit; and
- whether the proposal would have a detrimental impact on the visual amenities of the residents of neighbouring properties, and the locality in general.

As set out above, the change of use to a café does not require planning permission and is not a consideration material to a decision on the application.

Impact on Residential Amenity

9.2 Saved Policy H5 (Development Within Primarily Residential Areas) in the Replacement Unitary Development Plan states that new development in Primarily Residential Areas will be permitted provided that the development (either by itself or in conjunction with other developments) would not:

a) Have an unacceptable impact on the amenity of neighbouring occupants by reason of noise, disturbance, overlooking, visual intrusion, smells, fumes, on-street parking or other causes

9.3 Policy CS19 (Design Quality and Accessibility in New Development) states that to maintain a good standard of amenity for all existing and future occupants of land and buildings, development proposals will be required to avoid unacceptable impacts on existing residents, business occupier and future occupants.

9.4 The proposed flue stack will be approximately 22m from the nearest dwelling facing the site on Westhead Walk and approximately 21.5m from the closest dwelling to the rear of the site also on Westhead Walk. The principal effects from a flue on residential amenity are potential noise and odour concerns.

9.5 Given the distance of the flue from the closest residential properties, it is considered that its operation will not cause an unacceptable level of noise, provided that it is installed and maintained correctly. If planning permission is granted, a condition is also recommended, to require that the noise from the flue does not exceed a level where harm could be caused to residential amenity.

- 9.6 The application proposes a high-level opening on the side elevation of the café area facing Westhead Walk, together with a full window on the front. If planning permission is granted a condition is also recommended to ensure these windows are non-opening. It is also recommended in such case that the front entrance door of the café has a self-closing device attached which is operated when the café is in use. These requirements are proposed as they would help to mitigate any noise generated by the café.
- 9.7 With regard to odour, the flue itself would not generate any odours. Rather, it would extract and neutralise odours that are generated by the café. As the operation of the café does not require planning permission there are no planning powers that can be used to prevent such a use or the potential negative effects it may generate including odours. Nevertheless, if odours generated by the café are a problem, then Environmental Health would investigate under separate powers, whether a statutory nuisance is happening and, if so, require the café owner to stop or restrict the smell.
- 9.8 In summary, the proposed development would not have a detrimental impact on amenity and complies with Saved Policy H5 and Policy CS19.

Visual Amenity Impacts

- 9.9 Saved Policy H5 (Development Within Primarily Residential Areas) in the Replacement Unitary Development Plan states that new development in Primarily Residential Areas will be permitted, provided that the development (either by itself or in conjunction with other developments) would not:
- b) Adversely affect the character or street scene of the area.
- 9.10 Policy CS19 (Design Quality and Accessibility in New Development) states that to enhance local distinctiveness, identity and accessibility of places, new developments in Knowsley will be expected to respond to and integrate positive characteristics of their immediate surroundings.
- 9.11 The area of the building where the new shopfront is proposed is rendered to match the rest of the building's ground floor but has several unsightly solid roller shutters and their associated boxes covering all of the windows and doors.
- 9.12 The proposed shop front offers the opportunity to remove these roller shutters and 'open up' the building so it has a better relationship with the street. If planning permission is granted a condition is also recommended to require removal of the shutters. The design of the shop front itself is functional. However, as the main building is of only limited architectural quality the new shop front would not cause harm to the character of the building, or the local area.
- 9.13 The flue extraction stack will be satisfactory in appearance given its location and the proposed cladding and will not be significantly detrimental to the street scene.
- 9.14 In summary, the proposed development would comply with Saved Policy H5 and Policy CS19.

Other Matters

- 9.15 Several concerns have been raised which relate to the use of the building as a café, such as increased traffic, anti-social behaviour and noise and disturbance. As set out above, the use of part of the building as a café does not require planning permission and consequently, these matters are of no relevance to the decision on the application.
- 9.16 Concerns have also been raised that the use of the building as a café is the precursor to a future hot food take away use on the site, in the context of two previous refusals of planning permission for such a use. Nonetheless, Members are reminded that a hot food take away does not form part of the proposal and that, consequently, the concerns expressed by residents in this regard must be set aside and cannot be given any weight in this application's consideration.

Conclusion

- 9.18 The application complies with planning policies and is acceptable. The concerns expressed by residents about the use of part of the building as a café and the building's future use as a hot food takeaway are not material to this application's consideration, for the reasons explained in the report. Therefore, the application is recommended for approval subject to appropriate planning conditions.

10. RECOMMENDATION:

That planning permission is granted subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1.

Reason: For the avoidance of doubt.

3. Fixed plant and machinery associated with the development shall be designed to a level that is at least 5dB(A) below the existing L_{A90} background noise level as measured during the relevant time period. Any tonal, impulsive and/or irregular noise would be addressed by imposing a penalty as per the methodology set out in BS 4142:2014+A1:2019, Methods for Rating and Assessing Industrial and Commercial Sound. Noise limits for fixed plant are to apply at a position 1 metre from the closest affected window of the nearest noise sensitive property.

Reason: In order to protect the amenity of the occupiers of neighbouring properties and to comply with Policies CS2 and CS19 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policies H5 and ENV2

of the Knowsley Replacement Unitary Development Plan adopted June 2006.

4. Prior to the installation of the shop front hereby permitted a scheme and timetable of implementation for the removal of the roller shutters, the making good of the building's fabric, precise details of the windows and doors, the enhancement of the building's external finish through re-rendering or the painting/cladding of the existing render, and details of the brick slips to clad the flue shall be submitted to and agreed in writing with the local planning authority. The development shall be implemented with the agreed details.

Reason: In the interests of visual amenity and to comply with Policy CS19 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policy H5 of the Knowsley Replacement Unitary Development Plan adopted in June 2006.

5. Both windows of the new shop front hereby permitted shall be fixed shut and non-opening only and shall be retained as such thereafter, and the front entrance door shall have a self-closing device attached which shall operate at all times that the café is in use and shall be retained as such thereafter.

Reason: In order to safeguard the residential amenities enjoyed by the occupants of residential properties on Westhead Walk and to comply with Policies CS2 and CS19 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policies H5 and ENV2 of the Knowsley Replacement Unitary Development Plan adopted in June 2006.